

# The California Advisory Commission on Special Education

## Annual Report

### Executive Summary

**T**he Advisory Commission on Special Education is mandated by state and federal law to study issues related to the education and needs of individuals with disabilities and subsequently to provide recommendations to the Governor, the Legislature, the State Board of Education, and the Superintendent of Public Instruction.



Through its study of legislation, visits to school sites, examination of research findings and reports, and hearings from numerous panels of stakeholders, the Commission has witnessed model programs, improved oversight, and a renewed emphasis by the people of California to work diligently for an appropriate education for all children.

At the same time, the ACSE members share a deep concern over the following issues:

- The critical shortage of appropriately certified, trained teachers and service providers
- The importance of appropriately educating adjudicated minors
- Statewide assessment efforts, specifically the California High School Exit Examination
- IDEA (Individuals with Disabilities Education Act) reauthorization and compliance

#### Underlying Cause

Insufficient funds continue to severely hamper necessary changes and improvements in the above-mentioned areas. The deficits of the state are compounded by those of the federal government, which has consistently failed to fulfill its commitment to grant the originally promised 40 percent of all funding that is needed in order to fulfill the intents and purpose of IDEA. This shortage of money creates, in turn, a scarcity mentality that makes it especially difficult to resolve these challenging issues.

Chronic underfunding of IDEA weakens not only special education programs; it has affected general education as well. School administrations are often forced to use general education dollars to comply with state and federal mandates, putting the quality of education for all students in serious jeopardy.

The Advisory Commission on Special Education is asking you to join them in their efforts to resolve these issues. Please write letters to your state and federal legislators in support of both the reauthorization of IDEA and its full funding. You are also invited to attend ACSE meetings and voice your concerns. For information about ACSE agendas, meeting schedules, and the protocol for making public statements at ACSE meetings, contact secretary Yolanda Starr (email [ystarr@cde.ca.gov](mailto:ystarr@cde.ca.gov) or phone 916/323-9768).

#### Special Appreciation

The Advisory Commission on Special Education would like to recognize and extend its deepest appreciation for the work of Program/Policy Committee Chairs, Patty R. Boyle and Jan Mangini, and the Legislative/Finance Committee Chairs, Barbara Rickard Monroe and Shirley Kaltenborn, in guiding the ACSE's actions during the past year.

## Program/Policy

by Patty R. Boyle and Jan Mangini, Co-Chairs

The Advisory Commission on Special Education (ACSE) focused its time and attention this year on specific urgent issues on which it felt it could effect positive outcomes for children with disabilities. As a result, the Program/Policy Committee guided presentations to the ACSE, in large part, toward the specific subjects listed below. Presentations on these topics were followed by discussions, allowing the commissioners an opportunity to sort through the information presented and immediately formulate action plans.

### The Reauthorization of the Individuals with Disabilities Education Act

The ACSE has taken an active role on various issues pending in the current reauthorization of the Individuals with Disabilities Education Act (IDEA), especially funding and eligibility. A member of the President's Commission on Excellence in Education addressed the ACSE, and the ACSE provided input to the President's Commission during regional hearings and through written submissions. The ACSE has pushed for full funding of IDEA at the federal level, and, at the state level, for new funding to supplement and not supplant existing allocations. The ACSE is working to insure that, in the reauthorization of IDEA, students with mild disabilities continue to receive special education services and that all students are educated in the environment that is most conducive to meeting their needs, even if they must be removed from traditional educational settings.

### California High School Exit Exam

According to current California law, commencing with the class of 2004, students must pass the California High School Exit Exam (CAHSEE) in order to receive a high school diploma. The ACSE has lobbied California's School Board through letters, testimony, and electronic mail to delay implementation of the CAHSEE and to provide alternative assessments for special education students, such as completion of IEP goals in lieu of the test. The ACSE also took issue with the Board's CAHSEE waiver policy and the fact that the accommodations it was allowing were minimal.

In February, a United States District Court ruled that special education students must be allowed to use accommodations or modifications specified in their Individual Education Programs (IEPs) or 504 Plans while taking the CAHSEE. The ACSE continues to advocate for fair and appropriate accommodations, alternative assessments for special education students for whom taking the CAHSEE would be meaningless, and for high school diploma options. Special education, by its very nature, supports alternative ways for students to achieve and learn. To deny a whole class of students the right to earn a diploma because they are unable to take the conventional path seems unjust to the Advisory Commission.

### Special Education Personnel Quality and Shortage

The shortage of qualified personnel permeates all areas of special education. Attracting, training, and retaining teachers, administrators, and other service providers is crucial to the success of special education programs. The ACSE heard from representatives from the Commission on Teacher Credentialing, and from professional organizations and unions representing classroom teachers, instructional assistants, speech pathologists, school psychologists, administrators, and others—all seeking ways to ameliorate this critical need.

Funding is central to this issue. Special education personnel are faced with overwhelming caseloads, unsuitable working environments, unmanageable paperwork, and inadequate support and training. The ACSE has lobbied, and will continue to lobby, for increased funding for special education. It will also work to increase public and legislative awareness of the importance of attracting qualified personnel and supporting those currently in the field.

### Adjudicated Minors

Students in adjudicated settings—including juvenile justice facilities, court schools, the California Youth Authority, and licensed care institutions—often have both identified and unidentified special education needs. Meeting these needs is particularly challenging in light of the transient nature of this student population and the difficulty in attracting and retaining qualified teachers and service providers. Panels of professionals in the areas



of youth in custody and foster youth made presentations to the ACSE, and ACSE commissioners toured associated facilities. As a result of the information gained through these panels and tours, the ACSE has worked to strengthen a statewide Health and Education passport system that keeps track of students as they change residences, thus eliminating gaps in service. The ACSE has also worked to eliminate nonparity between public and nonpublic schools in funding and accountability, obtaining salaries for teachers working in schools for adjudicated minors that are on a par with those of teachers in surrounding districts, and enhancing communication between agencies serving these students.

## Legislative/Finance

*by Shirley Kaltenborn and Barbara Rickard Monroe, Co-Chairs*

**T**he Legislative/Finance Committee has navigated the Advisory Commission on Special Education (ACSE) through the past year's legislation in an effort to identify and support those bills that address the issues most critical to special education in California. As it focused its time and energies, the ACSE considered many special education and related bills and took appropriate positions. This commission determined that compliance with IDEA (the Individuals with Disabilities Education Act), the California High School Exit Exam, and quality instruction would constitute three of its primary goals. It consequently devoted much of its energy this year to studying, tracking, and advising on the following bills, with the commitment to supporting similar legislation in the future.

### Compliance with the Individuals with Disabilities Education Act (IDEA)

**SB 2012**, introduced by Senator Bob Margett. This bill would ensure that services through interagency agreements would conform with federal law and regulations. Lack of conformity in this area could deprive the Special Education Division of the California Department of Education of considerable federal funds. The urgency of the issue inspired ACSE to sponsor this bill.

**AB 1859**, introduced by Assemblymember Lou Papan. This omnibus bill, sponsored by the California Department of Education, would align California education code and regulations with federal IDEA law.

### California High School Exit Exam

**AB 2600**, introduced by Assemblymember Fran Pavley. This bill would develop guidelines for the method and content of assessments that would provide alternatives to the high school exit examination for individuals with disabilities.

### Special Education Personnel Quality and Shortage

**AB 2444**, introduced by Assemblymember John Dutra and amended. This bill would require the state administration to consider making salaries for teachers, specialists, and administrators of the state special schools and diagnostic centers competitive with the salaries of similarly qualified school teachers, specialists, and administrators in California's public schools.

**SB 2507**, introduced by Senator Rod Pacheco. This bill would require the California School for the Deaf and the California School for the Blind to put in place certain assessment and accountability measures for school employees and students, making them eligible to apply for and receive categorical education funds.

**House Resolution 3957**, introduced by Representative Lindsey Graham. This CLASS ACT (Canceling Loans to Allow School Systems to Attract Classroom Teachers) would forgive up to \$17,500 in student loans for special education, math, and science teachers, thus encouraging qualified candidates to consider these specific areas of teaching as a profession.

### The Focus of the Work

The commissioners selected legislation according to their expertise and interests, and then studied and tracked the bills, making recommendations among themselves for support and opposition. They then formed visitation groups to advise selected legislators on creating and supporting bills that were vital to serving children with disabilities. This past year, one top priority that emerged was the need to educate legislators on the absolute necessity of the state being in compliance with federal regulations (IDEA) so as not to jeopardize future funding. Essentially, all other needs of the special education community (teacher shortage, class size reduction, adequate facilities) can be, in great part, alleviated by adequate resources.



# The Advisory Commission on Special Education

is an advisory body required by federal and state statutes to provide recommendations and advice to the State Board of Education, the Superintendent of Public Instruction, the Legislature, and the Governor in new or continuing areas of research, program development, and evaluation in California special education.

## Membership\* Directory, 2002–2003

### Public Members

Chairperson Angela Hawkins  
([angieathom@aol.com](mailto:angieathom@aol.com))  
Patty R. Boyle ([pjrb@attbi.com](mailto:pjrb@attbi.com))  
Don Burns ([dnburns@jps.net](mailto:dnburns@jps.net))  
Catherine Conrado ([cconrado@edusd.k12.ca.us](mailto:cconrado@edusd.k12.ca.us))  
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\* For information regarding the activities of—  
or any of the three current vacancies on—  
the Advisory Commission on Special Education,  
please contact the commission's liaison,  
Dennis Kelleher, at [dkellehe@cde.ca.gov](mailto:dkellehe@cde.ca.gov)  
or 916/327-0842; or visit the ACSE website  
at <http://www.cde.ca.gov/spbranch/sed/acse/acseindx.htm>

### Student Members

Sean Rossall  
Kevin Verdi

### Legislative Members

Fran Pavley, Assembly  
Charles Poochigian, Senate

### Governor's Office Liaison

Lynn Lorber, Secretary of Education

### State Board of Education Liaison

Robert Abernethy

### Department of Education/

#### Special Education Division Staff

Alice Parker, Executive Secretary, Director,  
Special Education Division  
Ronald Kadish, State Special Schools Liaison,  
Director, State Special Schools Division  
Dennis Kelleher, Commission Liaison  
Yolanda Starr, Commission Secretary

## Acknowledgments, 2001–2002

The Advisory Commission on Special Education wishes to acknowledge the dedicated contributions of the following individuals who gave so generously of their time and talents to promote excellence in special education in California:

### Former Members

Loeb Aronin      Julie Kennedy  
Allison Brightman      Larry Siegel  
Terri "Sam" Swanson

### Former Special Education Division Staff Liaison

Janet Canning

## Commission meeting dates and locations\* 2002–2003

September 25–27 .....	Sacramento	March 26–28 .....	Sacramento
October 23–25 .....	Eldridge	April 23–25 .....	Sacramento
November 20–22 .....	Riverside	May 21–23 .....	Sacramento
January 22–24 .....	Sacramento	June Date TBD .....	TBD
February 26–28 .....	Sacramento	July Date TBD .....	TBD

\* Exact dates and locations may change. Please visit the ACSE website (<http://www.cde.ca.gov/spbranch/sed/acse/acseindx.htm>) or contact secretary Yolanda Starr (phone: 916/323-9768; email: [ystarr@cde.ca.gov](mailto:ystarr@cde.ca.gov)) for the most current information or to obtain an agenda.

## Publishing Information



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## **Annual Report II**

### **Executive Summary**

The Advisory Commission on Special Education is mandated by state and federal law to study issues related to the education and needs of individuals with disabilities. Subsequently, the commission provides recommendations to the Governor, the Legislature, the State Board of Education, and the Superintendent of



Public Instruction. By studying legislation, visiting school sites and programs, examining research findings, and hearing from numerous stakeholders, the commission has improved the oversight and renewed the commitment of the people of California to work diligently for an appropriate education for all children.

While reviewing statewide programs and services and receiving input from multiple agencies and stakeholders, the commission members have shared a deep concern over the following, ongoing issues:

- The critical shortage of appropriately certified, trained teachers and service providers
- Full funding of the Individuals with Disabilities Education Act (IDEA)
- Reauthorization of and compliance with IDEA
- Appropriate, statewide funding of special education services
- Statewide assessment and accountability efforts
- The California High School Exit Exam

Many of the problems in special education may be attributed to lack of sufficient funding. When pay is inadequate, materials in short supply, and classroom support weak or nonexistent, teachers and service providers are discouraged from even entering the profession, let alone staying. In addition, these professionals often face disputes with parents—not because of any fundamental disagreement, but simply because the resources to best support children often do not exist.

The federal government has contributed to the budget problem by consistently failing to fulfill its commitment to grant the 40 percent of all funding that it promised and that is needed in order to meet the intent and purposes of IDEA. In this regard, the chair of the commission, Angela Hawkins, testified in front of the President's Commission on Excellence in Special Education, while five commissioners participated in a summit held in January to discuss issues pertaining to IDEA reauthorization. Thirty organizations representing the various stakeholder groups converged in this latter effort to reach consensus on the most important issues facing this reauthorization. They concluded in a resounding cry for additional federal funding.

The problems of assessment and accountability have also caught the commission's attention. The new Quality Assurance Process (QAP) that guides the California Department of Education in monitoring the school districts in the state shows great integrity as it brings about increased accountability for student progress and parent assurance.

However, along with the push toward accountability has come the California High School Exit Exam (CAHSEE) and an alarming 87 percent failure rate of students with disabilities on the test's first



administration. While the commission supports the concept of academic accountability, students with disabilities must at the same time be ensured of high quality programs that prepare them for life after school and that challenge them to reach their full potential. The disabilities that led students into special education may not be overcome by simply setting higher standards or applying greater pressure. Achieving the goals and objectives established by the Individualized Education Plan (IEP) requires hard work on everyone's part



and a particularly high caliber of instruction. Denial of a high school diploma has profound implications for the employability and self-esteem of students with disabilities. The commission is seeking to delay the implementation of the CAHSEE until all students have been taught under the new standards that are aligned with the exam.

The Advisory Commission on Special Education (ACSE) is asking you to join them in their efforts to resolve these issues. Please write letters to your state and federal legislators regarding the reauthorization of IDEA and its full funding. You are also invited to attend ACSE meetings and voice your concerns. For information about ACSE agendas, meeting schedules, and the protocol for making public statements at ACSE meetings, contact the acting ACSE secretary at 916/323-9768.

The ACSE commissioners would like to recognize and extend their deepest appreciation to the Program/Policy Committee Co-Chairs Patty R. Boyle and Jan Mangini; the Legislative/Finance Committee Co-Chairs Karla Geller and Linda Wyatt; and to ACSE commissioners Barbara Rickard Monroe, Catherine Conrado, and Jim Woodhead for contributing to this report.

## Legislative/Finance

During the 2001–02 fiscal year, members of California's Advisory Commission on Special Education tracked numerous legislative bills that had the potential of affecting special education. While the commission studied and supported numerous pieces of legislation—some of which were chaptered, others vetoed—three in particular deserve special comment.

**Senate Bill 2012** (by Senator Bob Margett) was sponsored by the Advisory Commission on Special Education and signed into law in September 2002, ensuring interagency agreements and aligning those provisions in California's Education Code with the federal Individuals with Disabilities Education Act (IDEA). This legislation guarantees that all services that are needed to ensure a free and appropriate public education are provided for individuals with exceptional needs.

This bill also amends Section 7579 of the Government Code. This code pertains to any public agency, other than an educational agency, that places a child with a disability or a child suspected of having a disability in a facility out of state without the involvement of the school district, special education local plan area (SELPA), or county office of education in which the parent or guardian resides. The code requires this public agency to assume all financial responsibility for the child's residential placement, special education program, and related services in the other state, unless the other state or its local agencies assume responsibility.

**Assembly Bill 1895** (by Assembly Member Roderick Wright) received full support of the commissioners. This bill, which became law in January 2003, prohibits an employee of a school district, county office of education, or a special education local plan area from discouraging or preventing a teacher from taking any reasonable action to help parents or guardians secure the kind of educational services they need for a student with special needs.

**Assembly Bill 1859** (by Assembly Member Lou Pappan) represented the third attempt by California's legislature to author and pass a bill that would allow California to conform to all of the requirements of the federal Individuals with Disabilities Education Act (IDEA) of 1997. Known as an "omnibus" bill, AB 1859 comprehensively amends, repeals, and adds numerous sections to California's education code related to special education.

**Additional Legislation** that the commissioners followed through the legislative process included a number of bills that were eventually chaptered and incorporated into Part 30 of California's Education Code, which contains the primary body of special education law:

- ▶ Assembly Bill 2326 Braille Reading Standards (by Assembly Member Frommer)
- ▶ Assembly Bill 2781 Education Finance (by Assembly Member Oropeza)
- ▶ Senate Bill 1677 Surrogate Parents (by Senator Alpert)

The following bills, also related to special education, were studied and tracked by the Advisory Commission on Special Education and eventually chaptered:

- ▶ Assembly Bill 886 Parental Authority: Educational Decisions (by Assembly Member Simitian)
- ▶ Assembly Bill 925 Employment of Persons with Disabilities (by Assembly Member Aroner)
- ▶ Assembly Bill 2444 State Special Schools and Diagnostic Centers (by Assembly Member Dutra)
- ▶ Assembly Bill 2525 Accessible Voting Systems (by Assembly Member Jackson)
- ▶ Assembly Bill 2668 Pupil Curricula: Brain and Spinal Cord Injury (by Assembly Member Zettel)
- ▶ Assembly Bill 3035 Access to Government Programs (by the Committee on Judiciary)
- ▶ Senate Bill 105 Services for the Blind/Visually Impaired and Deaf/Hard of Hearing (by Senator Burton)
- ▶ Senate Bill 1379 Speech Language Pathologists Endoscope (by Senator O'Connell)
- ▶ Senate Bill 1405 Paraprofessionals: Instructional Aides (by Senator O'Connell)
- ▶ Senate Bill 1476 High School Exit Examination (by Senator O'Connell)
- ▶ Senate Bill 1708 Charter Schools: Special Education Funding (by Senator Poochigian)
- ▶ Senate Bill 1911 Children's Mental Health (by Senator Ortiz)
- ▶ Senate Bill 2029 Teacher Certification: District Interns (by Senator Alarcon)

## Focus for the Current Year

In August 2002, the commissioners met in a special planning session to determine a central focus for the 2002–03 fiscal year. While many areas needed legislative attention, two were identified and continue to be the most crucial: full funding for special education and the implications of the California High School Exit Exam (CAHSEE) for students with disabilities.

Special education has suffered from a serious lack of funding since the inception of IDEA. Even though Congress has just granted an additional \$1.4 billion to special education, \$155 million of which will go to California, this still represents only 19 percent of the 40 percent funding that was originally promised. Commissioners believe very strongly that full federal funding for special education would benefit all students in the public school system in California, since it would allow more state dollars to be used in the general education programs.

Implementing the CAHSEE also has consequences for all California high school students, but it has potentially negative ones for those in special education. At least 87 percent of the students with disabilities who have taken the exam have failed, often despite the fact that they have progressed successfully through grade levels and have completed the goals on their Individualized Education Plans (IEPs). The ACSE commissioners are working diligently to find a way to have the CAHSEE delayed until questions surrounding accommodations, modifications, and curriculum standards can be addressed. Additionally, commissioners have been closely following the development of the California Alternate Performance Assessment (CAPA), which will be part of California's Standardized Testing and Reporting (STAR) and designed for those students for whom traditional assessments are not appropriate.

One additional concern of the ACSE commissioners involves student health. It is estimated that up to 30 percent of our entire student population is, at one time or another, afflicted with a chronic illness. This, along with the fact that children with disabilities are being included in general education classrooms, makes the presence of trained health care providers a critical issue in public schools. However, since each district in the state decides how many qualified personnel it will hire, ratios can vary dramatically. In some districts there is one school nurse to every 30,000 students. For years the ACSE commissioners have been concerned for the health and safety of the thousands of California's students who need to have medicines administered during their school day. The commission is currently working closely with groups that have been involved in the development of proposed regulations to ensure the best possible care for California's most fragile student populations.



The commission wishes to thank Paul Hinkle, Consultant, Special Education Division, California Department of Education, for his support in developing its legislative agenda. Commissioners have always been able to rely on his presence at the commission meetings, where he has provided insight into the legislative process and specific legislation related to special education on both the state and federal levels. His work with the commission on legislative issues demonstrates a profound level of commitment to improving educational services for all students in California. To Paul we dedicate this biannual report.

## The Advisory Commission on Special Education

is an advisory body required by federal and state statutes to provide recommendations and advice to the State Board of Education, the Superintendent of Public Instruction, the Legislature, and the Governor in new or continuing areas of research, program development, and evaluation in California special education.

## Membership\* Directory, 2002–2003

### Public Members

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### Student Members

Sean Rossall  
Kevin Verdi

### Legislative Members

Fran Pavley, Assembly  
Charles Poochigian, Senate

### Governor's Office Liaison

Lynn Lorber, Secretary of Education

### State Board of Education Liaison

Robert Abernethy

### Department of Education/ Special Education Division Staff

Alice Parker, Executive Secretary, Director,  
Special Education Division  
Ronald Kadish, State Special Schools Liaison,  
Director, State Special Schools Division  
Dennis Kelleher, Commission Liaison

\* For information about any of the current vacancies on the Advisory Commission on Special Education, please contact the commission's liaison, Dennis Kelleher, at [dkellehe@cde.ca.gov](mailto:dkellehe@cde.ca.gov) or 916/327-0842; or visit the ACSE website at <http://www.cde.ca.gov/spbranch/sed/acse/acseindx.htm>.

## Commission meeting dates and locations\* 2003

April 23–25 ..... Sacramento  
May 21–23 ..... Sacramento

\* Exact dates and locations may change. Please visit the ACSE website (<http://www.cde.ca.gov/spbranch/sed/acse/acseindx.htm>) or contact the commission's acting secretary (phone: 916/323-9768) for the most current information or to obtain an agenda.

## Publishing Information



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